

05-08-07

HFW

PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	10/697,454-Conf. #7977
		Filing Date	October 30, 2003
		First Named Inventor	Richard W. Newman
		Art Unit	2873
		Examiner Name	B. N. Thomas
Total Number of Pages in This Submission	5	Attorney Docket Number	281_317

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Mailroom Postcard, Certificate of Express Mailing
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARJAMA & BILINSKI LLP		
Signature			
Printed name	Peter J. Bilinski		
Date	May 7, 2007	Reg. No.	35,067

Transmittal

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM019416433US, on the date shown below in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: May 7, 2007

Signature:

(Susan Pagano)



Application No. (if known): 10/697,454

Attorney Docket No.: 281_317

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, No. EM019416433US in an envelope addressed to:

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on May 7, 2007
Date

Signature

Susan Pagano

Typed or printed name of person signing Certificate

Registration Number, if applicable

(315) 425-9000
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Response to Restriction Requirement (3 pgs.)
Transmittal (1 pg)
This Certificate of Express Mailing (1 pg.)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM019416433US, on the date shown below in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

Dated: May 7, 2007

Signature: 

(Susan Pagano)

Docket No.: 281_317
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Richard W. Newman et al.

Application No.: 10/697,454

Confirmation No.: 7977

Filed: October 30, 2003

Art Unit: 2873

For: Apparatus and Method for Diagnosis of
Optically Identifiable Ophthalmic Conditions

Examiner: B. N. Thomas

RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the outstanding Restriction Requirement having a mailing date of April 6, 2007, and pursuant to 35 USC §121, 37 CFR §1.143 and MPEP §818.03(b), Applicants hereby provisionally elect, with traverse, to prosecute the claims of Group I, namely Claims 1-96, of the above-captioned patent application.

Applicants respectfully traverse the restriction requirement since the subject matter of all pending claims is sufficiently related that a thorough and complete search for the subject matter of the elected claims would necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. Thus, it is respectfully submitted that search and examination of the entire application could be made without serious burden. In this case, the features relating to Claims 97-99, though noted as relating to that of a person's health include features that are also

covered, for example, in Claim 94, 95 that relate to interpretive results from at least two types of data stemming from eye imaging. As a result, it would appear the the same search resources would be consulted to search Claim 98 and Claims 94 and 95 wherein each of the features of Claims 94 and 95 are subsumed within that of Claim 98. Similar recurrences are present in Claims 97 and 99. See *MPEP* ' 803 in which it is clearly stated that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits." It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to the Applicants and improper duplicative examination by the Patent Office. Withdrawal of the outstanding Restriction Requirement is respectfully requested herein.

If the Requirement is maintained, Applicants herein reserve the right to file additional divisional patent application(s) based on the subject matter of the non-elected claims to this additional Restriction Requirement.

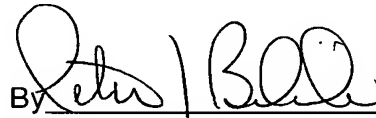
Entry of this response and expedited examination of the herein elected claims is respectfully requested at this time.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicants' representative at the telephone number listed below.

The Director is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Dated: May 7, 2007

Respectfully submitted,

By 

Peter J. Bilinski
Attorney for Applicants
Registration No.: 35,067
MARJAMA & BILINSKI LLP
250 South Clinton Street
Suite 300
Syracuse, New York 13202
(315) 425-9000
Customer No. 20874

PJB/slp